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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,063	04/16/2001	Focke Rass	225/49847	3891

7590

05/23/2002

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/835,063

Applicant(s)
Rass

Examiner
Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is not clear how to make and use the claimed "fine-positioning guide means".

The examiner notes that paragraph "0006" uses terminology of "fine positioning" but does not clearly describe the structure or the operation of that structure. For that reason, one of ordinary skill in the art cannot make and use the claimed invention. See MPEP 2181-2185.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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It is not clear if Applicant intends limitation of “rough-positioning guide means” to include some other structure besides that already set forth in the claim corresponding to that ‘means’ whereby the scope of the limitation is indefinite. See MPEP 2181-2185. ‘As best understood’, the structure corresponding to that limitation is defined in the claim such that no further reference to the written specification is necessary.

Similar consideration applies to limitation of “fine-positioning guide means” since at least some of the structure corresponding with the ‘means’ is explicitly included in the claim. However, in this case it is not clear if the structure that is claimed corresponding to the “means” is sufficient for performing the function because of other issues noted in the disclosure of this feature. Particularly, it is not clear what structure is included by recitation of “fine-positioning means” since the structure and operation corresponding to the ‘means’ is not clearly described in the written specification. Again, please see MPEP 2181-2185.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. As best understood, claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 314 075 B1 in view of U.S. Pat. No. 2,629,621 to Roethel.

EP '075 teaches Applicant's claim limitations including : "latching housing" - including 4, a "rotary latch" - 3, "mounted in the lock housing": - 10, "tapers trapezoidally" - as shown in Fig 1, "sliding wedges which are resiliently displaceable" - 26,26, "fine-positioning guide means" - the wedges and latch housing of the reference include the comprising structure of the claimed "means".

Regardless, the reference does not disclose the "bores" and "guide rods" associated with each "wedge". However, Roethel '621 teaches a similar device with wedge having a bore and a corresponding guide rod. It would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the sliding wedges of EP 075 with bores and guide rods as taught by Roethel '621 for the reasons noted by Roethel '621 since one of ordinary skill in the art would recognize these structures as equivalents to the guide structure disclosed by EP '075 since both structures are mechanically similar and perform the same function of guiding the respective wedge such that one of ordinary skill in the art would have more than a reasonable expectation of success.

As regards claim 5, part 5 is attached at both ends to plates thereby forming a "U-shaped latching bracket with the ends of the U limbs fastened to a baseplate".

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Pat. No. 2,210,989 to Sutherland.
- b. U.S. Pat. No. 2,244,951 to Joyce.
- c. U.S. Pat. No. 2,893,774 to Carpenter.
- d. U.S. Pat. No. 5,273,325 to Zimmermann.

7. Submission of any response by facsimile transmission is encouraged. Group 3627's relevant facsimile numbers are :

- 703-872-9326, for formal communications for entry **before Final** action: or
- 703-872-9327, for formal communications for entry **after Final** action.

Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) ____ - ____) on _____

(Date)

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Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is (703) 308 - 0494. The examiner can normally be reached on M - Th from 730 am to 600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann, can be reached on (703) 306-4115.


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9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

- Technology Center 3600 Customer Service is available at 703-308-1113.
- General Customer Service numbers are at 800-786-9199 or 703-308-9000.

GWE

May 15, 2002


GARY ESTREMSKY
PRIMARY EXAMINER